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10/660,710	09/12/2003	Takahiro Nakano	500.38315VX2	7646
20457	7590	07/08/2010	EXAMINER	
ANTONELLI, TERRY, STOUT & KRAUS, LLP			NGUYEN, LUONG TRUNG	
1300 NORTH SEVENTEENTH STREET			ART UNIT	PAPER NUMBER
SUITE 1800			2622	
ARLINGTON, VA 22209-3873			MAIL DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/660,710	<b>Applicant(s)</b> NAKANO ET AL.
	<b>Examiner</b> LUONG T. NGUYEN	<b>Art Unit</b> 2622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 10 May 2010.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 11-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 11 and 17-21 is/are allowed.
- 6) Claim(s) 12-16 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/GS-68)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

**DETAILED ACTION**

1. The indication of allowability subject matter of dependent claim 13, now is rewritten in independent claim 13, has been withdrawn due to the newly founded reference Tani (US 5,187,569). A new non-final office action sets forth below.

***Double Patenting***

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 13-16 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 3-6 of U.S. Patent No. 7,403,226. Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following reasons.

Claim 13 of the instant application is anticipated by patent claims 1 and 3 in that claims 1 and 3 of the patent contains all the limitations of claim 13 of the instant application. Claim 13 of the instant application therefore is not patently distinct from the earlier patent claim and as such is unpatentable for obvious-type double patenting.

Claim 14 of the instant application is anticipated by patent claim 4 in that claim 4 of the patent contains all the limitations of claim 14 of the instant application. Claim 14 of the instant application therefore is not patently distinct from the earlier patent claim and as such is unpatentable for obvious-type double patenting.

Claim 15 of the instant application is anticipated by patent claim 5 in that claim 5 of the patent contains all the limitations of claim 15 of the instant application. Claim 15 of the instant application therefore is not patently distinct from the earlier patent claim and as such is unpatentable for obvious-type double patenting.

Claim 16 of the instant application is anticipated by patent claim 6 in that claim 6 of the patent contains all the limitations of claim 16 of the instant application. Claim 16 of the instant application therefore is not patently distinct from the earlier patent claim and as such is unpatentable for obvious-type double patenting.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 12, 13, 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kijima et al. (US 6,661,451) in view of Tani (US 5,187,569).

Regarding claim 13, Kijima et al. discloses an electric camera comprising:

an image sensing device (CCD 12, figure 1, column 3, lines 25-34; column 4, line 57 – column 5, line 42) with a light receiving surface having N vertically arranged pixels and an arbitrary number of pixels arranged horizontally, N being equal to or more than three times the number of effective scanning lines M of a display screen of a television system;

a driver (figure 1, column 3, lines 25-34; column 4, line 57 – column 5, line 42) to drive the image sensing device to vertically mix or cull signal charges accumulated in individual pixels of K pixels to produce, during a vertical effective scanning period of the television system, a number of lines of output signals which corresponds to  $1/K$  the number of vertically arranged pixels N of the image sensing device, K being an integer equal to or less than an integral part of a quotient of N divided by M; and

a signal processing unit (image processing portion 26, figure 1, column 2, lines 62-67) having a function of generating image signals by using the output signals of the image sensing device.

Kijima et al. fails to disclose wherein color filters that pass first, second and third colors respectively are arranged to cyclically appear horizontally at three-pixel intervals and color filters that pass the same colors arranged vertically. However, Tani discloses a solid state imaging device, in which color filters 18R, 18G, 18 B are alternately arranged vertically in a predetermined order (see figures 1A-1B, column 4, lines 47-67). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device in Kijima et al. by the teaching of Tani in order to provide a solid state imaging device in which a high quality picture of high resolution can be formed by a single imaging device (column 2, lines 10-15; lines 53-63).

Regarding claim 12, Kijima et al. discloses a trigger device (trigger 46, figure 1, column 3, lines 16-25; column 4, lines 1-16) such as a shutter button, wherein, when a trigger is produced by the trigger device, the signal charges accumulated in individual pixels of the image sensing device are not cyclically mixed but are read out independently for all pixels.

Regarding claim 16, Tani discloses wherein the first, second and third colors are red, green and blue, respectively (see figures 1A-1B, column 4, lines 47-67).

6. Claims 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kijima et al. (US 6,661,451) in view of Tani (US 5,187,569) further in view of Udagawa et al. (US 6,195,125).

Regarding claim 14, Kijima et al. and Tani fail to disclose wherein the first, second and third colors are yellow, green and cyan, respectively. However, Udagawa et al. discloses an image sensing apparatus in which color filter chips of C (cyan), G (Green) and Y (Yellow) are arranged in vertical stripe as shown in figure 2, column 6, lines 15-67. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device in Kijima et al. and Tani by the teaching of Udagawa et al. in order to provide a solid-state image sensing device, which is able to obtain image of different resolutions (column 2, lines 27-35).

Regarding claim 15, see Examiner's comments regarding claim 14.

***Allowable Subject Matter***

7. Claims 11, 17-21 are allowed.

The following is a statement of reasons for the indication of allowable subject matter:

Claims 11, 17-21 are allowed for the reasons as indicated in Office Action mailed on 11/10/2009.

***Conclusion***

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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LUONG T. NGUYEN whose telephone number is (571)272-7315. The examiner can normally be reached on 7:30AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, DAVID L. OMETZ can be reached on (571) 272-7593. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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07/01/10